

214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before February 26, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

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[Project No. 2082-013]

PacifiCorp; Notice Establishing Comment Period For Petition for Declaratory Order

February 11, 1997.

On December 3, 1996, PacifiCorp filed a petition for declaratory order, pursuant to Rule 207 of the Commission's regulations, 18 CFR 385.207, to remove uncertainty and resolve a dispute involving the scope of a minimum flow requirement under its license for the Klamath Project No. 2082. The petition's statements in support of the relief requested are summarized in this notice.

The Klamath Project consists of six hydroelectric developments located on the Klamath River and one on a tributary of that river, Fall Creek, in Oregon and California. Under contract with the U.S. Department of the Interior's Bureau of Reclamation (Bureau), PacifiCorp also operates the Bureau's Link River Dam, located on Upper Klamath Lake in Oregon, which is the source of the water used to generate power at the six Klamath River developments. Water behind the Link River Dam is also used for irrigation in the Klamath Basin, and the contract requires PacifiCorp to make water available to the Bureau for irrigation purposes.

In 1954, the Commission determined that the project was required to be licensed under the Federal Power Act. In 1961, the Commission amended the project license to require PacifiCorp to release into the streambed below Iron Gate Dam, the development furthest downstream, a minimum flow of 1300 cubic feet per second (cfs) of water from September 1 through April 30 of each year. PacifiCorp claims that, to meet that requirement, it must release sufficient

water from Upper Klamath Lake through the Link River Dam.

PacifiCorp states that, in recent years, pressure has been increasing to ensure the availability of water both for species of fish living in Upper Klamath Lake that have been listed as endangered under the Endangered Species Act and for anadromous fish species downstream of Iron Gate Dam that have been proposed to be listed under that act. In addition, the State of California Department of Fish and Game has requested that above-normal flows be provided downstream of Iron Gate Dam at various times of the year to enhance the habitat for anadromous fish downstream of that development, and the Bureau has been coordinating its responsibilities regarding such releases with California Fish and Game, the U.S. Department of Commerce's National Marine Fisheries Service, the U.S. Department of the Interior's Fish and Wildlife Service (FWS), affected Indian tribes, irrigators, and PacifiCorp.

During the 1995-96 irrigation season, irrigators in the Klamath Basin requested that the Bureau and PacifiCorp not release more than 1000 cfs from the Link River Dam after September 1, 1996, to assure the refill of Upper Klamath Lake during the winter of 1996-97. FWS and the Bureau instructed PacifiCorp not to release more than 1000 cfs from the Link River Dam into early September 1996. When PacifiCorp, upon direction from the Bureau, began releasing 1300 cfs from behind Link River Dam on approximately September 4, several irrigators, alleging third-party beneficiary rights under the contract, threatened litigation against PacifiCorp.

PacifiCorp states that the position and threats of the irrigators cause uncertainty regarding its rights and obligations under its license, specifically, its obligation to provide minimum flows downstream of the Iron Gate development. PacifiCorp requests issuance of a declaratory order removing the uncertainty regarding the nature and scope of this obligation and the related issue of compliance with the requests and directives of the FWS and the Bureau regarding PacifiCorp's operations of the Link River Dam. PacifiCorp requests a determination as to whether it must continue to release at least 1300 cfs from the Iron Gate and Link River Dams under the circumstances presented. It seeks a declaratory order on these issues for the purpose of clarifying any subsequent analysis regarding preemption of a state breach of contract action by federal regulation.

Pursuant to Rule 213(d) of the Commission's regulations, 18 CFR 385.213(d)(2), answers to petitions are due within 30 days after filing, unless otherwise ordered. To ensure adequate notice to all interested persons, the Commission staff has determined that notice of the petition for a declaratory order should be published and that the deadline for filing an answer, comments, protests, or petitions to intervene in connection with the licensee's petition for a declaratory order should be as established in this notice.

Any person may file an answer, comments, a protest, or a motion to intervene with respect to PacifiCorp's petition in accordance with the requirements of the Rules and Practice and Procedure, 18 CFR 385.210, 385.211, 385.213, and 385.214. In determining the appropriate action to take with respect to the petition, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any answers, comments, protests, or motions to intervene must be filed by March 20, 1997; and must bear in all capital letters the title "ANSWER," "COMMENTS," "PROTEST", or "MOTION TO INTERVENE", as applicable, and "Project No. 2082-013." Send the filings (original and 14 copies) to: the Secretary, Federal Energy Regulatory Commission, 888 1st Street, N.E., Washington, D.C. 20426. A copy of any filing must also be served upon each representative of the licensee specified in its petition. Copies of the petition are on file with the Commission and are available for inspection in the Public Reference Room.

Lois D. Cashell,
Secretary.

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[Docket No. CP97-226-000]

Sabine Pipe Line Company; Notice of Request Under Blanket Authorization

February 11, 1997.

Take notice that on February 4, 1997, Sabine Pipe Line Company (Sabine) P.O. Box 4781, Houston, Texas 77210-4781, filed in the above docket, a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations for authorization to use an existing receipt tap to deliver gas through displacement to MidCon Gas Pipeline Corp. (MidCon). The receipt